

LEGISLATIVE BILL 204

Approved by the Governor March 18, 2009

Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Hadley, 37; Lautenbaugh, 18; Loudon, 49; Stuthman, 22.

FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-4,141.01 and 60-4,168.01, Reissue Revised Statutes of Nebraska; to change certain penalty provisions relating to prohibited operations of commercial motor vehicles; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-4,141.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,141.01 (1) No person shall operate a commercial motor vehicle upon the highways of this state while his or her commercial driver's license or privilege to operate a commercial motor vehicle is suspended, revoked, or canceled, ~~or~~ while subject to a disqualification or an out-of-service order, or while there is an out-of-service order in effect for the commercial motor vehicle being operated or for the motor carrier operation. Any person who operates a commercial motor vehicle upon the highways of this state in violation of this subsection shall be subject to section ~~60-4,108.~~

(2) No person shall operate a commercial motor vehicle transporting hazardous materials upon the highways of this state while his or her commercial driver's license or privilege to operate a commercial motor vehicle is suspended, revoked, or canceled, while subject to a disqualification or an out-of-service order, or while there is an out-of-service order in effect for the commercial motor vehicle being operated or for the motor carrier operation.

(3) No person shall operate a commercial motor vehicle transporting sixteen or more passengers including the driver upon the highways of this state while his or her commercial driver's license or privilege to operate a commercial motor vehicle is suspended, revoked, or canceled, while subject to a disqualification or an out-of-service order, or while there is an out-of-service order in effect for the commercial motor vehicle being operated or for the motor carrier operation.

~~(4) No person shall operate a commercial motor vehicle upon the highways of this state while he or she is disqualified under section 60-4,168. A person violating this subsection is subject to section 60-4,108.~~

(5) Any person operating a commercial motor vehicle in violation of subsection (1), (2), (3), or (4) of this section shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any commercial motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the commercial driver's license of such person to be revoked for a like period and (b) for each subsequent such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any commercial motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the commercial driver's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

(6) For purposes of this section, out-of-service order has the same meaning as in section 75-362.

Sec. 2. Section 60-4,168.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,168.01 (1) A Except as provided in subsection (2) of this section, a person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting nonhazardous materials shall be subject to disqualification as follows: ~~except as provided in subsection (2) of this section:~~

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least ~~ninety~~ one hundred eighty days but no more than one year upon a court conviction for violating an out-of-service order;

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least ~~one year~~ two years but no more than five years upon a second court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period; and

~~beginning on or after October 1, 1996, and~~

(c) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a third or subsequent court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period, ~~beginning on or after October 1, 1996.~~

(2) A person who is convicted of violating an out-of-service order while operating a commercial motor vehicle ~~while~~ which is transporting hazardous materials required to be placarded pursuant to section 75-364 or while operating a commercial motor vehicle designed or used to transport sixteen or more passengers, including the driver, shall be subject to disqualification as follows:

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than two years upon conviction for violating an out-of-service order; and

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a second or subsequent conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period, ~~beginning on or after October 1, 1996.~~

(3) For purposes of this section, out-of-service order has the same meaning as in section 75-362. ~~shall mean a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local authority that a driver is out of service pursuant to 49 C.F.R. 386.72, 392.5, 395.13, or 396.9, compatible laws enacted by other jurisdictions, 49 C.F.R. 392.5, 395.13, or 396.9 as adopted pursuant to section 75-363, or the North American Uniform Out-of-Service Criteria.~~

Sec. 3. Original sections 60-4,141.01 and 60-4,168.01, Reissue Revised Statutes of Nebraska, are repealed.